

**Internal Revenue Service**

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:B04

PLR-108493-07

Date:

March 23, 2007

In Re:

**LEGEND**

Taxpayer =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Sub 9 =

Target =

Date A =

Date B =

Date C =

Date D =

Date E =

Date F =

Date G =

Individual =

A

Dear :

This replies to a letter dated January 29, 2007, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to satisfy the statement, notice and withholding requirements of Treas. Reg. §§ 1.897-2(g), 1.897-2(h), and 1.1445-2(c)(3). The information submitted for consideration is substantially as set forth below.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

Prior to the transaction described in the next paragraph, Taxpayer owned other corporations directly or indirectly as follows: Taxpayer wholly owned Sub 1. Taxpayer, together with Sub 1, owned all of the interests in Sub 2. Sub 2 wholly owned Sub 3, Sub 3 wholly owned Sub 4, Sub 4 wholly owned Sub 5, Sub 5 wholly owned Sub 6, Sub 6 wholly owned Sub 7, Sub 7 wholly owned Sub 8, and Sub 8 wholly owned Sub 9. Sub 8 and Sub 9 are domestic corporations. All the other corporations are foreign.

On Date A, Taxpayer acquired Target, a domestic corporation. On Date B, Taxpayer transferred Target to Sub 2. On Date C, Sub 2 transferred Target to Sub 3, and Sub 3 transferred Target to Sub 4. On Date D, Sub 4 transferred Target to Sub 5, and Sub 5 transferred Target to Sub 6. On Date E, Sub 6 transferred Target to Sub 7. On Date F, Sub 7 transferred Target to Sub 8. On Date G, Sub 9 merged into Target, with Target surviving.

Under Treas. Reg. § 1.897-1(c)(1)(ii), an interest other than solely as a creditor in a domestic corporation is a United States real property interest (USRPI) unless it is

established that the corporation was not a U.S. real property holding corporation (USRPHC) during the period described in IRC § 897(c)(1)(A)(ii). When a foreign person disposes of a USRPI, any gain realized is taxed as though the foreign person was engaged in a trade or business within the United States pursuant to IRC § 897(a)(1). Furthermore, the transferee of the USRPI is generally required to withhold and remit to the Service ten percent of the amount realized under IRC § 1445(a). A foreign person may establish that a domestic corporation is not a USRPI by obtaining a statement from the domestic corporation using the procedures of Treas. Reg. §§ 1.897-2(g) and (h). The domestic corporation must furnish a copy of that notice to the IRS within 30 days for the notice to be effective. Treas. Reg. § 1.897-2(h)(2). If the notices are filed following these procedures then no withholding under IRC § 1445 is required. Treas. Reg. § 1.897-2(g)(1)(ii)(B).

However, neither Taxpayer nor Subs 2 through 7 requested or received a statement from Target in connection with any of the transfers certifying that the interest in Target was not a USRPI as of the date of the relevant transfer. Consequently, the required notices were not sent to the IRS.

Target is a domestic corporation and thus, in the absence of the notice described in the previous paragraph, is presumed to be a USRPI. Thus, the transfer by Taxpayer to Sub 2 was presumed to be a disposition of a USRPI, requiring withholding under IRC § 1445. Similarly, each of the transfers of Target to Sub 3 through and including the transfer to Sub 8 were presumed to be dispositions of a USRPI by a foreign person, also subject to withholding under IRC § 1445.

Taxpayer, Subs 1-7, and Target now seek relief under the provisions of Treas. Reg. §§ 301.9100-1 and -3 to file the applicable notices and statements late.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the standards set forth in Treas. Reg. § 301.9100-3 to make a regulatory election under all subtitles of the Code, except subtitles E, G, H, and I. Treas. Reg. § 301.9100-1(b) defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-3 provides standards for extensions of time for making regulatory elections when the deadline for making the election is other than a due date prescribed by statute. Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, the statements and notices fall within the definition of a regulatory election. Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth in Treas. Reg. § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer, Subs 1-7, and Target satisfy Treas. Reg. § 301.9100-3(a). Accordingly, pursuant to Treas. Reg. § 301.9100-1 and Treas. Reg. § 301.9100-3, Taxpayer, Subs 1-7, and Target are granted an extension of time until 60 days from the date of this ruling letter to satisfy the statement, notice and withholding requirements of Treas. Reg. §§ 1.897-2(g), 1.897-2(h), and 1.1445-2(c)(3) with respect to the transfers that occurred on Dates B through F.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to comply with the statement and notice requirements. Treas. Reg. § 301.9100-1(a).

A copy of this ruling letter should be attached with the statements and the notices mailed to the IRS.

This ruling is directed only to the taxpayer who requested it. IRC § 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to the power of attorney on file in this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

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David Bailey  
Assistant to the Branch Chief  
Associate Chief Counsel  
(International, Branch 4)

Enclosure:  
Copy for 6110 Purposes